



Tr. C.M.P. No.1327 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2024

CORAM:

THE HONOURABLE MR. JUSTICE BATTU DEVANAND

Tr. C.M.P. No.1327 of 2022
& CMP No.22447 of 2022

J.M.Vanitha @ Vanitha Arokiyamary

... Petitioner

Vs.

F.Allwyn Reynold

... Respondent

Prayer: Transfer Civil Miscellaneous Petition is filed under Section 24 of C.P.C., praying to withdraw I.D.O.P.No.283 of 2022 pending on the file of the Family Court, Coimbatore and transfer the same to the file of Family Court, Salem to be tried alongwith IDOP No.293 of 2022.

For Petitioner : Mr. N.Premalatha
For respondent :Mr.A.Saravanan

ORDER

This Transfer Civil Miscellaneous Petition is filed seeking to withdraw I.D.O.P.No.283 of 2022 pending on the file of the Family Court, Coimbatore and transfer the same to the file of Family Court, Salem to be tried alongwith



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IDOP No.293 of 2022.

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2.The petitioner and the respondent are wife and husband. Their marriage was solemnised on 27.11.2020 at Coimbatore. Due to some disputes, the petitioner left her matrimonial home on 03.05.2021 and she is staying with her parents at Salem. The respondent had filed an application in IDOP No.283 of 2022 on the file of the Family Court, Coimbatore for decree of divorce. Subsequently, the petitioner also filed an application for restitution of conjugal rights in IDOP No.293 of 2022 on the file of the Family Court, Salem and both the cases are pending.

3.It is the contention of the learned counsel for the petitioner that for each and every hearing, the petitioner has to travel with her aged parents from Salem to Coimbatore and it is difficult to travel and appear before the Family Court at Coimbatore. Under these circumstances, the present Transfer Civil Miscellaneous Petition has been filed.

4.Accordingly, the petitioner sought to transfer IDOP No.283 of 2022



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pending on the file of the Family Court, Coimbatore to the file of Family

WEB COURT, Salem to be tried alongwith IDOP No.293 of 2022.

5.The learned counsel for the respondent submits that IDOP No.283 of 2022 can be transferred from the file of Family Court, Coimbatore to the file of Family Court, Erode, which is the middle place to Coimbatore and Salem in the interest of both the parties.

6.Having considered the submissions of the learned counsel for the petitioner and upon careful perusal of the material available on record, it appears that the respondent is making allegation against the petitioner that she is suffering with some mental disorder and he learnt that she is taking treatment prior to the marriage and after the marriage also she is using medicines without his knowledge and when he questioned about the same, a dispute arose.

7.This Court is not going into the merits of the case and facts of the allegation at this stage. However, if the allegation of the respondent is true,



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normally it is difficult for her to travel 200 kilometres to attend each and every hearing of the Court proceedings at Coimbatore. Hence, this Court feels that it is appropriate to consider the request of the petitioner.

8.In *Rajani Kishor Pardeshi v Kishor Babulal Pardeshi*,¹ the Hon'ble Apex Court held that while going into the merits of a transfer application, the Courts required to give more weight and consideration to the convenience of the female litigants, and the Courts should desist from putting female litigants under undue hardships. Therefore, the convenience of the wife is to be preferred over the convenience of the husband.

9.Considering the facts and circumstances of the case and the petitioner is being a lady, definitely she has to face difficulties to travel from Salem to Coimbatore to attend the case filed by the respondent. In our considered view, it is appropriate to transfer IDOP No.283 of 2022 pending on the file of the Family Court, Coimbatore to the file of Family Court, Salem.

¹ 2005(12)SCC237



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10. Accordingly, this Transfer Civil Miscellaneous Petition is allowed and the IDOP No.283 of 2022 pending on the file of the Family Court, Coimbatore is hereby withdrawn and transferred to the file of Family Court, Salem. The learned Judge, Family Court, Coimbatore shall transmit the entire records in IDOP No.283 of 2022 pending on his file, to the file of Family Court, Salem, forthwith, by duly indexed. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

11. The learned counsel on either side requested this Court to direct the learned Judge, Family Court, Salem to conduct a trial and speedy dispose of both the Petitions as expeditiously as possible in the interest of justice.

12. Considering the request of the learned counsel for the petitioner, since both the petitions are pertaining to the year 2022, in the considered opinion of this Court, it is appropriate and reasonable to direct the learned Judge, Family Court, Salem to dispose of both IDOP Nos.283 & 293 of 2022 as expeditiously as possible preferably within a period of six months



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from the date of receipt of a copy of this order.

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13.The learned counsel on either side gave an undertaking before this Court on behalf of their clients that they will cooperate for the speedy trial and for expeditious disposal of both the Petitions.

14.The undertaking given by the learned counsel on either side is placed on record.

26.06.2024

Index : Yes / No

Neutral Citation : Yes / No

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Note: Issue order copy within three days.

To

1.The learned Judge, Family Court, Coimbatore

2.The learned Judge, Family Court, Salem.

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BATTU DEVANAND, J.

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